

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
DANYELL THOMAS, RASHAUN F. FRAZER,  
ANDRAE WHALEY and ELENi MIGLIS,  
individually and on behalf of all other employees  
similarly situated

Plaintiffs

v.

:  
:  
Civil Action No. 16-cv-8160  
:  
:

BED BATH AND BEYOND, INC.

Defendant.  
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**DECLARATION OF DANIEL PEET**

I, DANIEL PEET, based on my personal knowledge of the facts stated herein, testify by  
Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters contained in this Declaration, and if so called, would testify to the facts below.
2. All of the statements in this Declaration are true and accurate to the best of my knowledge.
3. Bed Bath and Beyond Inc. ("BBB") stores are all different. Because I have experience only with stores in the Southeast Region, the facts set forth in this Declaration are limited to my personal knowledge of the stores in which I have experience.
4. I became employed by BBB in August 2003, as a Department Manager in Florida. In 2004, I was promoted to Assistant Store Manager ("ASM"); and in 2006, I became a Store Manager. I was promoted to District Training Manager ("District Manager") of the Southeast region, my current position, in 2009.

5. When I was an Assistant Store Manager, I worked in Store #128 in Naples, Florida and was responsible for managing approximately 16 Department Managers and hourly Associates on the side of the store for which I was responsible, and as many as 30 employees working in the store as a whole when I acted as the Manager on Duty.

6. In my previous role as an Assistant Store Manager, my responsibilities included directing the daily activities of Department Managers and hourly Associates; training and developing associates; interviewing and hiring employees; counseling, disciplining, issuing warnings, and assisting in terminating Associates when appropriate.

7. In my capacity as the District Operations Trainer, I currently oversee nine (9) Florida stores, ranging in volume from low to very high. I travel to each one of my stores and am at a different store location every day. While at my stores, I am on the floor observing and working with the Store Managers and Assistant Store Managers to ensure that the stores are functioning in an efficient way.

8. Typically, a BBB District Operations Trainer has responsibility for a number of stores in a particular geographic area. Reporting to the District Operations Trainer are Store Managers, each of whom is responsible for a single store. The Store Managers, in turn, have Assistant Store Managers reporting to them. In Florida, each store has between one (1) and five (5) Assistant Store Managers. Each store has between one (1) and seven (7) Department Managers who report to the Assistant Store Managers. Assistant Store Managers oversee Department Managers and hourly Store Associates. The number of hourly Associates varies greatly from store to store, with the lower volume stores having fewer than twenty (20), and higher volume stores having upwards of ninety (90).

9. There are two types of ASMs at BBB: Operations Managers and Merchandise Assistant Managers. The ASMs in the Southeast Region are classified as exempt employees.

10. Both Operations Managers and Merchandise Assistant Managers are expected to do primarily exempt work. The responsibilities required of an ASM can vary as a result of a number of factors.

11. For example, the type of ASM (Operations vs. Merchandise Assistant) has an impact on the day to day exempt responsibilities. While both types of ASMs are responsible for managing the Department Managers and Store Associates who report to them, Operations Managers typically have more direct reports. Operations Managers are responsible for ensuring that the following departments, and the Associates who work in them, are running properly: Front-End, Inventory, Receiving, and Freight. Operations Managers are also responsible for scheduling and timekeeping.

12. Furthermore, as a result of having a higher number of direct reports, Operations Managers tend to spend more time on interviewing, hiring, training, payroll, disciplinary actions, and conducting performance reviews.

13. Merchandise Assistant Managers, on the other hand, usually manage a smaller team of people of approximately eight (8) to ten (10) people. They are responsible for ensuring that their associates keep the shelves stocked. They are also responsible for enhancing store aesthetics such as displays, and hiring and supervising employees to accomplish these goals.

14. An ASM's duties are also affected by the Store Manager's management style. If a Store Manager is an effective delegator, the ASM will likely learn to delegate similarly and focus on exempt responsibilities. If a Store Manager to whom an ASM reports is inclined to micromanage, then the ASM may not learn to delegate as effectively. The personality of each



ASM also plays a role, as some ASMs prefer to do some operational tasks by themselves, whereas others delegate more tasks.

15. Store volume also has an impact on an ASM's experience. Stores that do not conduct as much business throughout the year are usually heavily influenced by market seasonality as a result of "snowbird" activity when non-Floridians travel to Florida for the winter months and the stores get extremely busy. During those winter months, the staffing needs of the stores increase and there are typically more hourly Associates on the schedule for the Assistant Store Managers to oversee and supervise.

16. Another factor affecting how much hiring, firing and discipline an ASM is doing is applicant flow. In some regions, BBB receives fewer employment applications than in other areas. Exempt duties such as reviewing applications, conducting interviews and offering employment to applicants naturally consumes more of an ASM's time in a store with a high applicant flow. This factor is independent from whether a store is high or low volume. While more positions need to be filled in a high volume store, some lower volume stores have very high applicant flow and, as a result, reviewing all of the resumes becomes a time consuming endeavor, even if the store does not hire as many individuals as in a high volume store.


17. BBB designates certain temporary roles such as "Manager on Duty" ("MOD") who is the decision maker for the store responsible for managing service levels, safety, applicant flow, and other areas. Serving as the MOD affords ASMs an opportunity to assume extra exempt responsibilities. The variation here stems from the decision-making of the Store Manager, who is responsible for designating this role on a day to day basis.

18. Based on my personal observations of Assistant Store Managers in my stores, the Assistant Store Managers spend a significant amount of time performing exempt tasks in

managing Department Managers and hourly associates. The Assistant Store Managers in my stores also assist in the hiring, firing, or discipline of the hourly associates.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this <sup>th</sup>6 day of April 2017.

By:  4/6/17  
Daniel Peet  
District Operations Trainer  
Bed Bath and Beyond Inc.